



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/976,322	11/21/1997	KIMMO DJUPJSJOBACKA	915-312	1733

4955 7590 12/03/2003

WARE FRESSOLA VAN DER SLUYS &  
ADOLPHSON, LLP  
BRADFORD GREEN BUILDING 5  
755 MAIN STREET, P O BOX 224  
MONROE, CT 06468

EXAMINER

BROWN, RUEBEN M

ART UNIT	PAPER NUMBER
----------	--------------

2611

DATE MAILED: 12/03/2003

21

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

08/976,322

Applicant(s)

DJUPSJOBACKA ET AL.

Examiner

Reuben M. Brown

Art Unit

2611

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 October 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See attached Advisory Action.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 2-22.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_.

**ANDREW FAILE****SUPERVISORY PATENT EXAMINER**

## ADVISORY ACTION

### *Response to Arguments*

1. Applicant's arguments filed 10/16/2003 have been fully considered but they are not persuasive. Applicant argues on page 10 that "claim 2 did not contain the broadcast feature 12 & 13 contained in claims 12 & 13". Examiner agrees, but points out that as written, claims 12 & 13 do not require the claimed "broadcast transmission stream" as recited in the proposed amendment to claims 2, 10, 11, 15 & 19 and newly added claim 23.

The following response is made *in arguendo*, that examiner considers applicant's argument valid that a requested web page transmitted to a requesting consumer does not read on a "broadcast transmission", which applicant points to in a reference as being defined as "to send information to two or more receiving devices simultaneously". Claims 12 & 13, recite a "broadcasting device for transmitting at least one service in a communication system...". However, the instant claims do not include the specific requirement of a "broadcast transmission stream", but instead more broadly recite "a transmission stream". Even though in claims 12 & 14, a broadcast device is used, such a recitation does not require that the claimed 'transmission stream' is a "broadcast transmission stream".

The preamble of claims 12 & 13 would require an apparatus that is capable of broadcasting information, although the claims do not explicitly recite that the broadcasting

Art Unit: 2611

device is used to generate a "broadcast transmission stream". Thus since applicant has not previously presented a claim requiring a "broadcast transmission stream", examiner contends that the proposed amendment of a "broadcast transmission stream" represents new matter, which would require further search and/or consideration.

With respect to the merits of applicant's argument of a "broadcast transmission stream", Eyer specifically discloses that the transmitting side includes a programming services function that comprises video and audio programming services from network TV stations and the like; see col. 7, lines 61-67. Moreover, Eyer goes on to point out on in col. 8, lines 1-12 that the HTML/HTVP data may be related to some or all programming services, providing information such as movie reviews, stock quotes, programming guides, etc. Applicant appears to argue that this system in Eyer would not transmit these information services to more than one receiver simultaneously. Finally, Eyer teaches that these "transport streams may be **broadcast** directly to the user via a **DBS** satellite system, microwave **broadcast** system or the like", emphasis added; see col. 8, lines 29-32, which clearly reads on the claimed "broadcasting device" recited in claims 12 & 13.

In light of the arguments cited above, examiner maintains the rejections of the Final Action, mailed 6/20/2003.

Art Unit: 2611

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

(703) 872-9306, (for formal communications intended for entry)

**Or:**

(703) 746-6861 (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

*Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,  
Arlington, VA., Sixth Floor (Receptionist).*

Any inquiry concerning this communication or earlier communications from the  
examiner should be directed to Reuben M. Brown whose telephone number is (703) 305-2399.  
The examiner can normally be reached on M-F (8:30-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's  
supervisor, Andrew I. Faile can be reached on (703) 305-4380. The fax phone numbers for the  
organization where this application or proceeding is assigned is (703) 872-9306 for regular  
communications and After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding  
should be directed to the receptionist whose telephone number is (703) 305-4700.

Reuben M. Brown

  
ANDREW FAILE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600